

## Packaging and Paper Product Stewardship Plan

### Definition of Producer for the Purposes of Producer Obligation and Reporting

“Brand” is a trademark.

“Brand Owner” is a Person Resident in British Columbia who uses the product in a commercial enterprise, sale, offer for sale or distribution in British Columbia and who is:

- (a) the owner of the registered or unregistered trademark; or
- (b) a licensee of the registered or unregistered trademark, where “licensee” includes a person who packages goods and includes any person whose corporate name or business name registration contains the trademark;

And.

“Consumer” means an individual (other than a Person in the Industrial, Commercial, or Institutional (IC&I) sector) to whom Packaging or Paper Product is Supplied.

“First Importer” is a Person Resident in British Columbia who imports Packaging or Paper Product into British Columbia or is the first to take possession or control of Packaging or Paper Product in British Columbia for use in a commercial enterprise, sale, offer for sale or distribution in British Columbia and for which a Brand Owner does not exist.

“Franchisor”, “Franchisee”, “Franchise System”, or “Subfranchise” have the meaning ascribed to these terms in the *Franchises Act* or as may be amended or replaced from time to time:

<http://www.bclaws.ca/civix/document/id/lc/statreg/15035>. This includes Franchisors who conduct business in British Columbia through their British Columbia Franchise System, regardless of whether the Franchisor has a Franchisor-owned fixed place of business in British Columbia.

“IC&I Material” means Packaging or Paper Product which is supplied to the industrial, commercial, or institutional sector and which is not subsequently Supplied to Consumers.

“Person” means an individual, partnership, joint venture, sole proprietorship, corporation, government, trust, trustee, executor, administrator or any other kind of legal personal representative, unincorporated organization, association, institution, or entity.

“Producer” means the Person who is obligated with respect to the Packaging or Paper Product, and includes any person who elects to become a Voluntary Producer in accordance with Recycle BC’s policies.

“Resident in British Columbia” with respect to a corporation, means a corporation that has a permanent establishment in British Columbia. In the case of Franchisors, it includes Franchisors who conduct business in British Columbia through their British Columbia Franchise System, regardless of whether the Franchisor has a Franchisor-owned fixed place of business in British Columbia.

Resident in British Columbia, with respect to a corporation, means a corporation that has a permanent establishment in British Columbia, where “permanent establishment” includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies and other fixed places of business. In addition to the foregoing, the following deeming provisions shall apply:

# Packaging and Paper Product Stewardship Plan

## **Contracting Employees or Inventory Sufficient**

Where a corporation carries on business through an employee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which the employee or agent regularly fills orders which the employee or agent receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation.

## **Commission Agent not Sufficient**

The fact that a corporation has business dealings through a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

## **Subsidiary of Parent not Sufficient**

The fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place.

## **Licensed Insurance Company Sufficient**

An insurance corporation is deemed to have a permanent establishment in each jurisdiction in which the corporation is registered or licensed to do business.

## **Purchasing Office not Sufficient**

The fact that a corporation maintains an office solely for the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office.

## **Ownership of Land Sufficient**

Where a corporation, otherwise having a permanent establishment in Canada, owns land in a province or territory of Canada, such land is a permanent establishment.

## **Production Packing and other Activities Sufficient**

The fact that a non-resident corporation in a year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year.

## **Machinery or Equipment Sufficient**

The use of substantial machinery or equipment in a particular place at any time in a year of a corporation constitutes a permanent establishment of such corporation in that place for such a year.

## **Principal Place of Business Sufficient**

Where a corporation has no fixed place of business, it has a permanent establishment in the principal place in which the corporation's business is conducted.

## **Charter or By Laws designating Head or Registered Office Sufficient**

Where a corporation does not otherwise have a permanent establishment in Canada, it has a

# Packaging and Paper Product Stewardship Plan

permanent establishment in the place designated in its charter or by-laws as being its head office or registered office.

**"Service Packaging"** means packaging which may or may not bear a Brand that is Supplied at the point of sale by the retail, food-service or other service providers to facilitate the delivery of goods, and includes all bags, boxes, and other items for the containment of goods at point of sale.

**"Supplied"** means sold, leased, donated, disposed of, used, transferred the possession of or title of, or otherwise made available to a Consumer in British Columbia or distributed for use by a Consumer in British Columbia. Supply and Supplies have similar meanings.

**"Voluntary Producer"** means any non-resident Brand Owner who elects to become a member of Recycle BC in accordance with Recycle BC's policies and membership agreement.

## DESIGNATION OF PRODUCERS

### Designation of Producers

The following Persons are designated as Producers for Packaging and Paper Product. If two or more Persons are designated as a Producer pursuant to the following provisions, then the earlier provision shall prevail.

### Producers for Packaging

For Packaging (except for Service Packaging) the Producer is the Person Resident in British Columbia who:

- a) is the Brand Owner for the British Columbia market; or
- b) if the Person described in paragraph (a) does not exist, then a Person who manufactures, packs or fills or causes the manufacturing, packing or filling of products regardless of whether the activity takes place in British Columbia or not; or
- c) if a Person described in paragraphs (a) or (b) does not exist, then the First Importer, unless the First Importer is a Consumer.

### Producers for Service Packaging

Any Person that Supplies Service Packaging in British Columbia at the point-of-sale shall be the Producer for such Service Packaging.

### Producers for Paper Product

For Paper Product, the Producer is the Person Resident in British Columbia who:

- a) is the Brand Owner of the Paper Product, whether production of the Paper Product takes place in British Columbia or not; or
- b) if a Person described in paragraph (a) does not exist, then a Person who is the title-owner of the Paper Product or is a licensee of those rights for British Columbia, whether production of the Paper Product takes place in British Columbia or not; or
- c) if a Person described in paragraphs (a) or (b) does not exist, then a Person who produces or manufactures the Paper Product whether the production or manufacturing takes place in British Columbia or not; or
- d) if a Person described in paragraphs (a), (b), or (c) does not exist, then the First Importer, unless the First Importer is a Consumer.

### Franchisor is Obligated to Report for its British Columbia Franchisees

## **Packaging and Paper Product Stewardship Plan**

A Franchisor is obligated to report for its British Columbia Franchisees with respect to all Packaging and Paper Product which is Supplied within the Franchisor's British Columbia Franchise System.

### **More Than One Brand Owner for the Same Packaging or Paper Product**

If there is more than one Brand Owner for the same Packaging or Paper Product, the Brand Owner more directly connected to the production of the Packaging or Paper Product shall be deemed to be the Producer.

### **Products Containing Two or More Independent Brands**

If products containing two or more independent Brands are packaged to be Supplied together, the Brand Owner, First Importer or Franchisor most directly connected to the joint Packaging shall be designated as the Producer for the joint Packaging.